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7 Attorney for Defendant

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11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE EASTERN DISTRICT OF CALIFORNIA

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18 UNITED STATES OF AMERICA,) Civ.S. 02-418 GEB
19 Plaintiff,)
20 v.) **STIPULATION AND PROPOSED ORDER**
21 FERNANDO LOPEZ-CUEVAS and)
22 ANTELMO ONTIVEROS,)
23 Defendants.)

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28 Defendant Fernando Lopez-Cuevas, by and through counsel Krista Hart, and plaintiff United States of America, by and through counsel Assistant U.S. Attorney Carolyn Delaney, hereby stipulate that briefing schedule set by this Court on June 19, 2006, be reset and stipulate that the sentencing brief is now due on August 21, 2006.

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30 Mr. Lopez-Cuevas went to trial before this Court in February, 2002. Attorney Gil Roquet represented Mr. Lopez-Cuevas during the trial. After the jury returned a guilty verdict, both defendants appealed their convictions. Attorney John Ward represented Mr. Lopez-Cuevas on the appeal. The U.S. Court of Appeals for the Ninth Circuit remanded the case to this Court in light of the holding in United

1 States v. Booker, 125 S.Ct. 738 (2005). Pursuant to United States v.
2 Ameline, 409 F.3d 1073 (9th Cir. 2005) (en banc) this Court issued an
3 order on June 19, 2006, ordering the attorneys for all parties to file
4 briefs answering the questions raised in Ameline. This Court appointed
5 the undersigned to represent Mr. Lopez-Cuevas on June 13, 2006.

6 The undersigned has not had sufficient time to obtain and review
7 the materials necessary to answer the Court's question. The
8 undersigned has obtained materials from attorney Gil Roquet concerning
9 the sentencing issues, but has not yet obtained the transcripts of the
10 trial or the sentencing hearing. Those transcripts are necessary to
11 determine whether the sentence for Mr. Lopez-Cuevas would have been
12 materially different had the district court known that the Guidelines
13 were advisory.

14 July 25, 2006

/s/ Krista Hart

Attorney for Fernando Lopez-Cuevas

16 July 25, 2006

McGregor Scott
United States Attorney

/s/ Carolyn Delaney

Assistant U.S. Attorney

20 **ORDER**

21 Good cause appearing, it is so ordered.

22 Dated: July 25, 2006

23 /s/ Garland E. Burrell, Jr.

24 GARLAND E. BURRELL, JR.

25 United States District Judge